



201 - WORKPLACE HARASSMENT

It is the policy of the City of Newport News that all employees will deal with the public and with other employees with courtesy, respect, professionalism and tact. The City is committed to providing all employees with a work environment free from discrimination and harassment based on race, color, gender, gender identity, sexual orientation, religion, national origin, age, disability status, childbirth or related medical conditions including lactation, status as a veteran, or any other factors protected by federal, state or local laws. The City will also not tolerate harassment of those employees who oppose harassment or prohibited discrimination, or who participate in this complaint process.

Although not all conduct such as that described or referred to in this policy constitutes unlawful harassment or discrimination, all forms of discrimination, harassment, improper or inappropriate behavior are prohibited by City policy. Regardless of whether such conduct is ultimately determined to rise to the level of unlawful conduct, the City will review the circumstances and will take appropriate disciplinary or other corrective action for illegal harassment, improper or inappropriate behavior as necessary. Managers at all levels are responsible for monitoring employee behavior in the workplace and for taking prompt and appropriate action to identify and eliminate discriminatory, harassing, and inappropriate behavior before it rises to the level of a violation of federal law.

Furthermore, it is the policy of the City to promptly and appropriately investigate complaints made under this policy, as well as actions which may constitute discrimination and harassment about which it has knowledge. It is the policy of the City to take prompt and appropriate corrective action when indicated.

I. WORKPLACE HARASSMENT

- A. Workplace harassment - a form of discrimination which may occur when an employee experiences inappropriate, improper and/or unwelcome behavior based on race, gender (whether or not of a sexual nature), gender identity, sexual orientation, religion, national origin, age, color, or disability status which creates a hostile work environment.
- B. Quid Pro Quo - occurs when a supervisor or other authority figure makes any employment decision (job-related benefit or detriment) based on the employee's acceptance or rejection of sexual advances. Specifically, it is illegal for a person of authority to require submission to unwelcome sexual advances, request sexual favors or other conduct of a sexual nature as an explicit or implied term or condition of employment - when the submission to or rejection of such conduct culminates in a tangible employment action. Tangible employment actions include but are not limited to, hiring and firing, demotion, suspension, certain transfers, promotion and failure to promote, compensation decisions, and decisions causing a significant change in benefits.

- C. Retaliation - punishing job applicants or employees for asserting their rights to be free from employment discrimination including harassment.

Workplace harassment may come from supervisors, co-workers, subordinates and third parties such as customers and vendors. Additionally, harassment may be directed toward an employee identified within the same group or category as the harasser, or toward an employee identified from a separate group or category.

II. IMPROPER AND INAPPROPRIATE BEHAVIOR

It is expected that employees will behave in a professional manner at all times, and treat supervisors, co-workers, subordinates and third parties, such as customers and vendors, with dignity and respect.

- A. Examples of improper and inappropriate behavior are listed below; however, this is not intended to be an exhaustive list of behavior which may constitute misconduct. Such behaviors are specifically prohibited by City policies and engaging in them will result in appropriate personnel action.
 - 1. Slurs, epithets, humiliating or derogatory jokes or comments concerning race, gender, gender identity, sexual orientation, religion, national origin, age, color or disability status. This may include comments, postings, e-mail, gestures and other written or non-written materials or actions.
 - 2. Threats of physical violence or harm, or other forms of abuse or intimidation based on race, gender, gender identity, sexual orientation, religion, national origin, age, color, or disability status.
 - 3. Off-color, sexually or racially suggestive actions, stares, questions, personal accounts, pictures, pin-ups, e-mail and other written, non-written, spoken, or visual materials and actions.
 - 4. Mimicking, teasing, or criticizing an employee based on race, gender, gender identity, sexual orientation, religion, national origin, age, color, or disability status.
 - 5. Sexual advances, requests for sexual favors, repeated requests for dates after the recipient has indicated no interest, or similar behavior.
 - 6. Sexually aggressive conduct including physically touching, stroking, kissing, or grabbing without the person's consent; any type of intimate touching or grabbing, or motions or gestures indicating or suggesting sexually aggressive or intimate touching, and similar actions. This includes any manner of obscene movements or gestures.

7. For supervisors, making submission to sexual advances, requests for sexual favors and participation in other conduct of a sexual nature explicitly or implicitly a term or condition of employment. Taking any type of adverse or favorable job action based on submission to, or rejection of, such conduct is also prohibited.

B. Hostile Work Environment

A hostile work environment is defined as one in which a reasonable person would determine that hostile, intimidating or abusive behavior is occurring based on race, gender, gender identity, sexual orientation, religion, national origin, age, color, or disability status. A hostile work environment is determined by considering the totality of the circumstances of conduct such as that listed above, including frequency, severity, pervasiveness, unwelcomeness, whether the conduct is humiliating or physically abusive, and whether the conduct unreasonably interferes with the employee's work performance. Improper and inappropriate behavior regardless of whether such rises to the level of illegal discrimination or harassment will be addressed within appropriate City and departmental policies.

Generally, interactions between two or more employees based on other factors do not constitute hostile work environment in the context of this policy, although misconduct actionable under other policies may have occurred.

Generally, actions taken by supervisors in the normal course of discharging their responsibilities for supervising and managing do not constitute a hostile work environment unless other factors described in this policy support such a finding.

III. RESPONSIBILITIES OF SUPERVISORS AND MANAGERS

- A. Supervisors and managers are responsible for the appropriate implementation and administration of this policy.
- B. Supervisors and managers are responsible for taking prompt action to ensure a work environment whereby their employees are free of improper and inappropriate conduct of the types described in this policy. Supervisors and managers are expected to set the example for appropriate behavior.
- C. Supervisors and managers at all levels are responsible for monitoring employee behavior in the workplace they supervise. In the event a supervisor or manager observes inappropriate behavior, is informed of such behavior, or receives a complaint of discrimination, harassment, or improper behavior, the manager is responsible for taking immediate steps to prevent such behavior from continuing. Furthermore, the manager is responsible for conducting or having conducted an investigation appropriate to the circumstances and for taking appropriate corrective action.

- D. Managers who observe or are informed of inappropriate behavior are responsible for addressing the situation and counseling the employee(s) involved, as well as documenting the action taken. Should the behavior continue, or should the manager become aware of potentially more serious discrimination or harassment, or should the manager receive a complaint of discrimination or possible harassment, then the manager shall immediately contact the department director. The department director, or designated representative, shall promptly consult with the Director of Human Resources, or designated representative, to determine the appropriate course of action, including the nature and scope of any investigation.
- E. To ensure appropriate conduct, supervisors are expected to observe how employees are treated by employees, vendors, and others in the work setting. Supervisors are also expected to observe how employees interact with the public, clients, vendors and other non-employees in the work setting.

IV. EMPLOYEE COMPLAINT PROCEDURE

Any employee who feels that he or she has been a recipient of inappropriate or improper conduct as described in this policy is responsible for taking action in a timely manner to avail themselves of preventive and corrective activities including utilization of the City's complaint procedure. All complaints shall be handled as confidentially as possible, except to the extent necessary to investigate the matter, take appropriate personnel action, or to defend the City and its officers and employees. No retaliation or adverse treatment may be taken against an employee as a result of an employee making a complaint, providing information, or participating in any investigation of a complaint. Acts of retaliation, or harassment of those who make a complaint or who participate in any investigation, shall be reported immediately to the Department of Human Resources and shall be promptly investigated.

Employees should take one or more of the following actions:

- A. The employee may tell the person committing the behavior that it is unwelcome or offensive and request that it be stopped. However, the employee is not required to do this before discussing the matter with departmental management or filing a complaint with the Department of Human Resources.
- B. The employee may discuss the matter with their supervisor or department director, as well as the supervisor or department director of the offending employee. If the employee is uncomfortable discussing the matter with the person committing the behavior and with departmental management, or if the behavior continues, or if the employee wishes to make a complaint, or if the employee believes they have experienced any tangible personnel action related to the situation, then the employee shall report the situation directly to the Department of Human Resources.
- C. Whenever possible, complaints should be submitted in writing to either the employee's supervisor, departmental management or Human Resources, by email, memorandum or letter. However, the Department of Human Resources and departmental management will also act on verbal complaints.

V. COMPLAINT INVESTIGATION PROCEDURE

The complaint investigation procedure is an administrative process and has no connection with any other City or departmental appeals or grievance procedures. Individuals are encouraged to utilize this procedure prior to seeking complaint resolution through other means.

The Department of Human Resources shall conduct investigations of formal complaints of discrimination or harassment. The Department of Human Resources will also conduct investigations upon the requests of departmental management, may conduct investigations on its own volition, and may coordinate with individual department management when appropriate.

At any time during the investigation, the complainant and/or the accused employee may be temporarily transferred to another work site or may be placed on administrative leave. These are not punitive actions and do not indicate any preliminary assessment of improper conduct. These are simply actions taken to separate the affected employees, when appropriate, and to facilitate a prompt investigation of the complaint.

Supersedes/Amends: 1006, 02/01/2019

Approved:



City Manager